IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA

APPEAL FROM ORDER NO. 61 OF 2004

1. Mr. Bhalchandra Gopal Naik,
   major, married, aged 77 years,
   Son of Shri Gopal Naik.

2. Shri Dulo Govind Fotto,
   Major, married, aged 66 years,
   Son of late Nuni @ Govind Dulo Fotto.

3. Smt. Malini Dulo Fotto,
   Major, married,
   Wife of Dulo Govind Fotto,
   Both r/o Caranzalem,
   Post Mardol, Marcaim,
   Ponda Goa.

4. Smt. Pramodini Praveen Sawant,
   Major, married, w/o Shri Praveen R. Sawant,
   Daughter of Dulo Govind Fotto,
   Resident of Room No. 106,
   Church Colony, Nr. Manguesh Church,
   Mangueshi Ponda Goa. .... Appellants

Versus

1. Smt. Sitabai Raghuvir Sawant,
   Alias Smt. Saraswati Fotto,
   Major, aged 72 years,
   Daughter of late Nuni @ Govind D. Fotto,
   Widow of Shri Raghuvir S. Sawant,
   R/o Chawl No.5, Room No. 4,
   Kaka Patil Wadi, V.P. Road,
   Andheri (E) Mumbai – 58.

2. Shri Prakash Raghuvir Sawant,
   Major, married, service, aged 54 years,

Son of late Raghuvir Sadashiv Sawant.

3. Smt. Chaya P. Sawant,
   Major, married, wife of Prakash Raghuvir Sawant,
   Both r/o 48/D/2,
   Areshwar Coop. Housing Society,
   Sardar Vallabhai Patel Nagar,
   (Mhada) 4 – Bungalow, Andheri (West),
   Mumbai – 59.

4. Shri Shankar Savlaram Shirodkar,
   Major, married, service.

5. Smt. Savita alias Manorama Shanakr Shirodkar,
   Major, married, wife of Shankar S. Shirodkar,
   Daughter of late Raghuvir S. Sawant,
   Both r/o A/1, Ground Floor,
   Lazarus Apartments, Opp. Shiv Sena Shaka,
   No.2, Post Thane, Godev Village,
   Bhayander (East) Mumbai.

6. Shri Chandrakant Laxman Halankar,
   Major, married, service.

7. Smt. Chandrika alias Snehlata Chandrakant
   Halankar, wife of Chandrakant L. Halankar,
   Daughter of late Shri Raghuvir S. Sawant,
   Both R/o Post Pednem, Tembwado,
   Morjim, Goa.

8. Shri Pradeep R. Sawant,
   Major, married, service,
   Son of late Raghuvir Sadashiv Sawant.

9. Smt. Pradnya Pradeep Sawant,
   Major, married, wife of Pradeep R. Sawant,
   Both r/o Chawl no. 5, Room No.4,
   Kaka Patil Wadi, V.P. Road,
   Parishan Apartments Compound,

Andheri (West) Mumbai 58.

10.Shri Praveen R. Sawant,
Major, married, businessman,
Son of late Raghuvir Sawant,
R/o room no. 106,
Church colony, Nr. Manguexi Church,
Mangueshi Ponda-Goa.

11.Shri Dattatraya Raghuvir Sawant,
Major, married, service,
Son of late Raghuvir S. Sawant.

12.Smt. Dipti D. Sawant,
Major, married,
Both r/o Chawl no.5, Room No.4,
Kaka Patil Wadi, V.P. Road,
Parishan Apartments Compound,
Andheri (West) Mumbai 58.

13.Shri Vijay Raghuvir Sawant,
Major, married, service,
S/o late Raghuvir S. Sawant,

14.Shri Ganesh R. Sawant,
Major, married, service,
Son of late Raghuvir S. Sawant,
Both residents of r/o Chawl no. 5,
Room No.4, Kaka Patil Wadi,
V.P. Road, Parishan Apartments
Compound, Andheri (West) Mumbai 58.

15.Smt. Prabhavati Bhalchandra Naik,
Major, married,
Wife of Bhalchandra Gopal Naik,
Daughter of Shri Nuni @ Govind Gopal Naik,
R/o Room no.3, Goregaon (West),
Tata Tope Nagar,
Near Jain Mandir, Goregaon (West). .... Respondents

Mrs. A. Agni, Advocate for the Appellants.

Mr. Edwin Furtado, Advocate for Respondents No. 1 to 14.
Mr. Mahadji Prabhu Desai, Advocate for Respondent No. 15.

CORAM : **P.V. KAKADE, J.**

DATE : **22nd NOVEMBER, 2006**

ORAL JUDGMENT:

Heard the learned Counsel for both the parties. Perused the record.

2. The unsuccessful defendants have preferred this appeal against the order dated 26/10/2004, issuing temporary injunction against the defendants, restraining defendants no. 3 & 4 from constructing the ground floor concrete terrace building, belonging to the plaintiffs. It was further directed that defendant no.3 should deposit the rental amount of Rs. 1,500/- per month.

3. After hearing both the parties for sometime, it was apparent that the process of recording of evidence in the trial has already begun and the evidence of two witnesses is recorded. Under the circumstances, in my considered view, no purpose would be served by adjudicating the interim

proceedings, one way or the other and it would be in the interest of both the parties to proceed with the suit itself, which should adjudicate all the issues involved finally on merits.

4. Under the circumstances, the trial Court is directed to complete the adjudication of the Special Civil Suit No. 10/04/A within a period of 6 months from the date of the receipt of the writ of this Court, after giving opportunity to both the sides to lead their respective evidence. Both the parties to co-operate to the lower Court in adjudicating the matter as per the direction. Pending the trial, parties shall maintain status quo with regard to the suit property as on today. With these directions, the appeal stands disposed of with no order as to cost.

P.V. KAKADE, J.

NH